

IN THE COURT OF APPEALS OF MARYLAND

R U L E S    O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Fiftieth Report to the Court recommending the adoption of proposed amendments to Rules 1-101, 4-216, 4-217, 4-221, 4-248, 4-251, 4-252, 4-271, 4-301, 4-324, 4-331, 4-340, 4-342, 4-343, 4-344, 4-351, 4-361, 4-406, 4-501, 4-502, 4-503, 4-504, 4-505, 4-507, 4-508, 4-509, 4-512, 4-601, 5-615, 8-204, 8-422, 9-105, 11-102A, 11-118, 11-601, 15-207, 15-304, 15-1001, 16-101, 16-204, 16-308, 16-503, and 16-813, and Forms 4-503.2, 4-504.1, and Form Interrogatory, Form No. 8 of the Maryland Rules of Procedure, all as set forth in that Report published in the *Maryland Register*, Vol. 28, Issue 23, pages 2028 - 2051 (November 16, 2001); and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes and making certain amendments to the proposed rules changes on its own motion, it is this 8th day of January, 2002

ORDERED, by the Court of Appeals of Maryland, that the amendments to Rules 1-101, 4-216, 4-221, 4-248, 4-251, 4-252, 4-301, 4-324, 4-331, 4-340, 4-342, 4-343, 4-344, 4-351, 4-361, 4-406, 4-501, 4-502, 4-503, 4-504, 4-505, 4-507, 4-508, 4-509, 4-601, 5-615, 8-204, 8-422, 11-102A, 11-118, 11-601, 15-207, 15-304, 15-1001, 16-101, 16-204, 16-308, 16-503, and 16-813, Form 4-503.2, and Form Interrogatory, Form No. 8 be, and they are hereby adopted in the form previously published; and it is further

ORDERED that the amendments to Rules 4-217, 4-271, 4-512, and 9-105 and Form 4-504.1 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after February 1, 2002, and insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be published in the next issue of the *Maryland Register*.

/s/ Robert M. Bell

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Robert M. Bell

/s/ John C. Eldridge

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John C. Eldridge

/s/ Irma S. Raker

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Irma S. Raker

/s/ Alan M. Wilner

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Alan M. Wilner

/s/ Dale R. Cathell

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Dale R. Cathell

/s/ Glenn T. Harrell, Jr.

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Glenn T. Harrell, Jr.

/s/ Lynne A. Battaglia

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Lynne A. Battaglia

Filed: January 8, 2002

/s/ Alexander L. Cummings

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Clerk  
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 to conform it to a certain statutory  
change, as follows:

Rule 1-101. APPLICABILITY

. . .

(k) Title 11

Title 11 applies to juvenile causes under Code, Courts  
Article, Title 3, Subtitles 8 and 8A.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-216 to remove a reference in sections (c), (e)(3)(B), and (f)(6)(B) to an outdated Code provision, to add to subsection (e)(2)(B) certain provisions concerning protecting the safety of the alleged victim, to add a new subsection (g)(2) providing for certain procedures when the defendant is a juvenile, and to correct references to Article 27 provisions which have been moved into the new Criminal Procedure Article, as follows:

Rule 4-216. PRETRIAL RELEASE

(a) Interim Bail

Pending an initial appearance by the defendant before a judicial officer pursuant to Rule 4-213 (a), the defendant may be released upon execution of a bond in an amount and subject to conditions specified in a schedule that may be adopted by the Chief Judge of the District Court for certain offenses. The Chief Judge may authorize designated court personnel or peace officers to release a defendant by reference to the schedule.

(b) Probable Cause Determination

A defendant arrested without a warrant shall be released on personal recognizance under terms that do not significantly restrain the defendant's liberty unless the judicial officer

determines that there is probable cause to believe that the defendant committed an offense.

(c) Defendants Eligible for Release by Commissioner or Judge

Except as otherwise provided in section (d) of this Rule or by law, a defendant is entitled to be released before verdict in conformity with this Rule on personal recognizance or with one or more conditions imposed unless the judicial officer determines that no condition of release will reasonably assure (1) the appearance of the defendant as required and (2) [if the defendant is charged with an offense listed under Code, Article 27, §616 ½ (k),] the safety of the alleged victim.

Cross reference: See Code, [Article 27, §616 ½ (d)] Criminal Procedure Article, §5-101 (c) concerning defendants who may not be released on personal recognizance.

(d) Defendants Eligible for Release Only by a Judge

A defendant charged with an offense for which the maximum penalty is death or life imprisonment or with an offense listed under Code, [Article 27, §616 ½ (c), (i), (j), (l), or (n)] Criminal Procedure Article, §5-202 (a), (b), (c), (d), or (e) may not be released by a District Court Commissioner, but may be released before verdict or pending a new trial, if a new trial has been ordered, if a judge determines that all requirements imposed by law have been satisfied and that one or more conditions of release will reasonably assure (1) the appearance of the defendant as required and (2) if the defendant is charged with an offense listed under Code, [Article 27, §616 ½ (c), (j), (l), or (n)] Criminal Procedure Article, §5-202 (b), (c), (d), or

(e), that the defendant will not pose a danger to another person or the community while released.

(e) Duties of Judicial Officer

(1) Consideration of Factors

In determining whether a defendant should be released and the conditions of release, the judicial officer, on the basis of information available or developed in a pretrial release inquiry, may take into account:

(A) The nature and circumstances of the offense charged, the nature of the evidence against the defendant, and the potential sentence upon conviction, insofar as these factors are relevant to the risk of nonappearance;

(B) The defendant's prior record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings;

(C) The defendant's family ties, employment status and history, financial resources, reputation, character and mental condition, length of residence in the community, and length of residence in this State;

(D) The recommendation of an agency which conducts pretrial release investigations;

(E) The recommendation of the State's Attorney;

(F) Information presented by defendant's counsel;

(G) The danger of the defendant to another person or to the community;

(H) The danger of the defendant to himself or herself; and

(1) Any other factor bearing on the risk of a wilful failure to appear, including prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult and prior convictions.

(2) Statement of Reasons - When Required

Upon determining to release a defendant to whom section (d) of this Rule applies or to refuse to release a defendant to whom section (c) of this Rule applies, the judicial officer shall state the reasons in writing or on the record.

(3) Imposition of Conditions of Release

If the judicial officer determines that the defendant should be released other than on personal recognizance without any additional conditions imposed, the judicial officer shall impose on the defendant the least onerous condition or combination of conditions of release set out in section (f) of this Rule that will reasonably:

(A) Assure the appearance of the defendant as required,

(B) Protect the safety of the alleged victim [if the defendant is charged with an offense listed under Code, Article 27, §616 ½ (k)] by ordering the defendant to have no contact with the alleged victim or the alleged victim's premises or place of employment or by other appropriate order, and

(C) Assure that the defendant will not pose a danger to another person or to the community if the charge against the defendant is an offense listed under Code, [Article 27, §616 ½ (c), (j), (l), or (n)] Criminal Procedure Article, §5-202 (b),



(c), (d), or (e).

(4) Advice of Conditions and Consequences of Violation

The judicial officer shall advise the defendant in writing or on the record of the conditions of release imposed and of the consequences of a violation of any condition.

(f) Conditions of Release

The conditions of release imposed by a judicial officer under this Rule may include:

(1) Committing the defendant to the custody of a designated person or organization that agrees to supervise the defendant and assist in assuring the defendant's appearance in court;

(2) Placing the defendant under the supervision of a probation officer or other appropriate public official;

(3) Subjecting the defendant to reasonable restrictions with respect to travel, association, or residence during the period of release;

(4) Requiring the defendant to post a bail bond complying with Rule 4-217 in an amount and on conditions specified by the judicial officer including any of the following:

(A) without collateral security,

(B) with collateral security of the kind specified in Rule 4-217 (e)(1)(A) equal in value to the greater of \$25.00 or 10% of the full penalty amount, or a larger percentage as may be fixed by the judicial officer,

(C) with collateral security of the kind specified in Rule 4-217 (e)(1) equal in value to the full penalty amount,

(D) with the obligation of a corporation that is an insurer or other surety in the full penalty amount;

(5) Subjecting the defendant to any other condition reasonably necessary to:

(A) assure the appearance of the defendant as required,

(B) protect the safety of the alleged victim [if the charge against the defendant is an offense listed under Code, Article 27, §616 ½ (k)], and

(C) assure that the defendant will not pose a danger to another person or to the community if the charge against the defendant is an offense listed under Code, [Article 27, §616 ½ (c), (j), (l), or (n)] Criminal Procedure Article, §5-202 (b), (c), (d), or (e);

(6) Imposing upon the defendant, for good cause shown, one or more of the conditions authorized under Code, Article 27, §763 reasonably necessary to stop or prevent the intimidation of a victim or witness or a violation of Code, Article 27, §26, §761, or §762.

Cross reference: See Code, [Article 27, §616 ½ (m)] Criminal Procedure Article, §5-201 (b), and Code, Business Occupations and Professions Article, Title 20, concerning private home detention monitoring as a condition of release.

(g) Review of Commissioner's Pretrial Release Order

(1) Generally

A defendant who is denied pretrial release by a commissioner or who for any reason remains in custody for 24 hours after a commissioner has determined conditions of release

pursuant to this Rule shall be presented immediately to the District Court if the court is then in session, or if not, at the next session of the court. The District Court shall review the commissioner's pretrial release determination and take appropriate action. If the defendant will remain in custody after the review, the District Court shall set forth in writing or on the record the reasons for the continued detention.

Cross reference: See Rule 4-231 (d) concerning the presence of a defendant by video conferencing.

## (2) Juvenile Defendant

If the defendant is a child whose case is eligible for transfer to the juvenile court pursuant to Code, Criminal Procedure Article, §4-202 (b), the District Court, regardless of whether it has jurisdiction over the offense charged, may order that a study be made of the child, the child's family, or other appropriate matters. The court also may order that the child be held in a secure juvenile facility.

### (h) Continuance of Previous Conditions

When conditions of pretrial release have been previously imposed in the District Court, the conditions continue in the circuit court unless amended or revoked pursuant to section (i) of this Rule.

### (i) Amendment of Pretrial Release Order

After a charging document has been filed, the court, on motion of any party or on its own initiative and after notice and opportunity for hearing, may revoke an order of pretrial release

or amend it to impose additional or different conditions of release. If its decision results in the detention of the defendant, the court shall state the reasons for its action in writing or on the record.

(j) Supervision of Detention Pending Trial

In order to eliminate unnecessary detention, the court shall exercise supervision over the detention of defendants pending trial. It shall require from the sheriff, warden, or other custodial officer a weekly report listing each defendant within its jurisdiction who has been held in custody in excess of seven days pending preliminary hearing, trial, sentencing, or appeal. The report shall give the reason for the detention of each defendant.

(k) Violation of Condition of Release

A court may issue a bench warrant for the arrest of a defendant charged with a criminal offense who violates a condition of pretrial release. After the defendant is presented before a court, the court may (1) revoke the defendant's pretrial release or (2) continue the defendant's pretrial release with or without conditions.

(l) Title 5 Not Applicable

Title 5 of these rules does not apply to proceedings conducted under this Rule.

Source: This Rule is derived in part from former Rule 721, M.D.R. 723 b 4, and is in part new.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-217 to correct references to Article 27 provisions which have been moved into the new Criminal Procedure Article and to make certain stylistic changes, as follows:

Rule 4-217. BAIL BONDS

(a) Applicability of Rule

This Rule applies to all bail bonds taken pursuant to Rule 4-216, and to bonds taken pursuant to Rules 4-267, 4-348, and 4-349 to the extent consistent with those rules.

(b) Definitions

As used in this Rule, the following words have the following meanings:

(1) Bail Bond

"Bail bond" means a written obligation of a defendant, with or without a surety or collateral security, conditioned on the appearance of the defendant as required and providing for the payment of a penalty sum according to its terms.

(2) Bail Bondsman

"Bail bondsman" means an authorized agent of a surety insurer.

(3) Bail Bond Commissioner

"Bail bond commissioner" means any person appointed to

administer rules adopted pursuant to Maryland Rule 16-817.

Cross reference: Code, [(1957, 1987 Repl. Vol.), Article 27, §6161/2 (f)] Criminal Procedure Article, §5-203.

(4) Clerk

"Clerk" means the clerk of the court and any deputy or administrative clerk.

(5) Collateral Security

"Collateral security" means any property deposited, pledged, or encumbered to secure the performance of a bail bond.

[(6) Commissioner

"Commissioner" means a commissioner of the District Court.]

[(7)] (6) Surety

"Surety" means a person other than the defendant who, by executing a bail bond, guarantees the appearance of the defendant, and includes an uncompensated or accommodation surety.

[(8)] (7) Surety Insurer

"Surety insurer" means any person in the business of becoming, either directly or through an authorized agent, a surety on a bail bond for compensation.

(c) Authorization to Take Bail Bond

Any [commissioner,] clerk, [judge, or peace officer] District Court commissioner, or other person authorized by law[, is authorized to] may take a bail bond. [A peace officer] The person who takes a bail bond shall [return] deliver it to the court in which the charges are pending, together with all money

or other collateral security deposited or pledged and all documents pertaining to the bail bond.

Cross reference: Code, [(1957, 1992 Repl. Vol.), Article 27, §616 ½ (a) and (b)] Criminal Procedure Article, §§5-204 and 5-205 and Code (1957, 1991 Repl. Vol.), Article 87, §6.

(d) Qualification of Surety

(1) In General

The Chief Clerk of the District Court shall maintain a list containing: (A) the names of all surety insurers who are in default, and have been for a period of 60 days or more, in the payment of any bail bond forfeited in any court in the State, (B) the names of all bail bondsmen authorized to write bail bonds in this State, and (C) the limit for any one bond specified in the bail bondsman's general power of attorney on file with the Chief Clerk of the District Court.

(2) Surety Insurer

No bail bond shall be accepted if the surety on the bond is on the current list maintained by the Chief Clerk of the District Court of those in default. No bail bond executed by a surety insurer directly may be accepted unless accompanied by an affidavit reciting that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

(3) Bail Bondsman

No bail bond executed by a bail bondsman may be accepted unless the bondsman's name appears on the most recent list maintained by the Chief Clerk of the District Court, the bail

bond is within the limit specified in the bondsman's general power of attorney as shown on the list or in a special power of attorney filed with the bond, and the bail bond is accompanied by an affidavit reciting that the bail bondsman:

(A) is duly licensed in the jurisdiction in which the charges are pending, if that jurisdiction licenses bail bondsmen;

(B) is authorized to engage the surety insurer as surety on the bail bond pursuant to a valid general or special power of attorney; and

(C) holds a valid license as an insurance broker or agent in this State, and that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

Cross reference: Code\_ [(1957, 1992 Repl. Vol.), Article 27, §616 ½ (f)] Criminal Procedure Article, §5-203 and Rule [1285] 16-817 (Appointment of Bail Bond Commissioner - Licensing and Regulation of Bail Bondsmen).

(e) Collateral Security

(1) Authorized Collateral

A defendant or surety required to give collateral security may satisfy the requirement by:

(A) depositing with the person who takes the bond the required amount in cash or certified check, or pledging intangible property approved by the court; or

(B) encumbering one or more parcels of real estate situated in the State of Maryland, owned by the defendant or surety in fee simple absolute, or as chattel real subject to ground rent. No



bail bond to be secured by real estate may be taken unless (1) a Declaration of Trust of a specified parcel of real estate, in the form set forth at the end of this Title as Form 4-217.1, is executed before the person who takes the bond and is filed with the bond, or (2) the bond is secured by a Deed of Trust to the State or its agent and the defendant or surety furnishes a verified list of all encumbrances on each parcel of real estate subject to the Deed of Trust in the form required for listing encumbrances in a Declaration of Trust.

(2) Value

Collateral security shall be accepted only if the person who takes the bail bond is satisfied that it is worth the required amount.

(3) Additional or Different Collateral Security

Upon a finding that the collateral security originally deposited, pledged, or encumbered is insufficient to insure collection of the penalty sum of the bond, the court, on motion by the State or on its own initiative and after notice and opportunity for hearing, may require additional or different collateral security.

(f) Condition of Bail Bond

The condition of any bail bond taken pursuant to this Rule shall be that the defendant personally appear as required in any court in which the charges are pending, or in which a charging document may be filed based on the same acts or transactions, or to which the action may be transferred, removed, or if from the

District Court, appealed, and that the bail bond shall continue in effect until discharged pursuant to section (j) of this Rule.

(g) Form and Contents of Bond - Execution

Every pretrial bail bond taken shall be in the form of the bail bond set forth at the end of this Title as Form 4-217.2, and shall be executed and acknowledged by the defendant and any surety before the person who takes the bond.

(h) Voluntary Surrender of the Defendant by Surety

A surety on a bail bond who has custody of a defendant may procure the discharge of the bail bond at any time before forfeiture by:

(1) delivery of a copy of the bond and the amount of any premium or fee received for the bond to the court in which the charges are pending or to a commissioner in the county in which the charges are pending who shall thereupon issue an order committing the defendant to the custodian of the jail or detention center; and

(2) delivery of the defendant and the commitment order to the custodian of the jail or detention center, who shall thereupon issue a receipt for the defendant to the surety.

Unless released on a new bond, the defendant shall be taken forthwith before a judge of the court in which the charges are pending.

On motion of the surety or any person who paid the premium or fee, and after notice and opportunity to be heard, the court may by order award to the surety an allowance for expenses in

locating and surrendering the defendant, and refund the balance to the person who paid it.

(i) Forfeiture of Bond

(1) On Defendant's Failure to Appear - Issuance of Warrant

If a defendant fails to appear as required, the court shall order forfeiture of the bail bond and issuance of a warrant for the defendant's arrest. The clerk shall promptly notify any surety on the defendant's bond, and the State's Attorney, of the forfeiture of the bond and the issuance of the warrant.

Cross reference: Code\_ [(1957, 1992 Repl. Vol.), Article 27, §12B] Criminal Procedure Article, §5-211.

(2) Striking Out Forfeiture for Cause

If the defendant or surety can show reasonable grounds for the defendant's failure to appear, notwithstanding Rule 2-535, the court shall (A) strike out the forfeiture in whole or in part; and (B) set aside any judgment entered thereon pursuant to subsection (4)(A) of this section, and (C) order the remission in whole or in part of the penalty sum paid pursuant to subsection (3) of this section.

Cross reference: Code\_ [(1957, 1992 Repl. Vol.), Article 27, §616 ½ (e)(1) and (2)] Criminal Procedure Article, §5-208 (b)(1) and (2) and *Allegany Mut. Cas. Co. v. State*, 234 Md. 278, 199 A.2d 201 (1964).

(3) Satisfaction of Forfeiture

Within 90 days from the date the defendant fails to appear, which time the court may extend to 180 days upon good cause shown, a surety shall satisfy any order of forfeiture, either by producing the defendant in court or by paying the

penalty sum of the bond. If the defendant is produced within such time by the State, the court shall require the surety to pay the expenses of the State in producing the defendant and shall treat the order of forfeiture satisfied with respect to the remainder of the penalty sum.

(4) Enforcement of Forfeiture

If an order of forfeiture has not been stricken or satisfied within 90 days after the defendant's failure to appear, or within 180 days if the time has been extended, the clerk shall forthwith:

(A) enter the order of forfeiture as a judgment in favor of the governmental entity that is entitled by statute to receive the forfeiture and against the defendant and surety, if any, for the amount of the penalty sum of the bail bond, with interest from the date of forfeiture and costs including any costs of recording, less any amount that may have been deposited as collateral security; and

(B) cause the judgment to be recorded and indexed among the civil judgment records of the circuit court of the county; and

(C) prepare, attest, and deliver or forward to any bail bond commissioner appointed pursuant to Rule 16-817, to the State's Attorney, to the Chief Clerk of the District Court, and to the surety, if any, a true copy of the docket entries in the cause, showing the entry and recording of the judgment against the defendant and surety, if any.

Enforcement of the judgment shall be by the State's Attorney

in accordance with those provisions of the rules relating to the enforcement of judgments.

(5) Subsequent Appearance of Defendant

When the defendant is produced in court after the period allowed under subsection (3) of this section, the surety may apply for the refund of any penalty sum paid in satisfaction of the forfeiture less any expenses permitted by law. If the penalty sum has not been paid, the court, on application of the surety and payment of any expenses permitted by law, shall strike the judgment against the surety entered as a result of the forfeiture.

(6) Where Defendant Incarcerated Outside this State

(A) If, within the period allowed under subsection (3) of this section, the surety produces evidence and the court finds that the defendant is incarcerated in a penal institution outside this State and that the State's Attorney is unwilling to issue a detainer and subsequently extradite the defendant, the court shall strike out the forfeiture and shall return the bond or collateral security to the surety.

(B) If, after the expiration of the period allowed under subsection (3) of this section, but within 10 years from the date the bond or collateral was posted, the surety produces evidence and the court finds that the defendant is incarcerated in a penal institution outside this State and that the State's Attorney is unwilling to issue a detainer and subsequently extradite the defendant, the court shall (i) strike out the forfeiture; (ii)

set aside any judgment thereon; and (iii) order the return of the forfeited bond or collateral or the remission of any penalty sum paid pursuant to subsection (3) of this section.

(j) Discharge of Bond - Refund of Collateral Security

(1) Discharge

The bail bond shall be discharged when:

(A) all charges to which the bail bond applies have been stettet, unless the bond has been forfeited and 10 years have elapsed since the bond or other security was posted; or

(B) all charges to which the bail bond applies have been disposed of by a nolle prosequi, dismissal, acquittal, or probation before judgment; or

(C) the defendant has been sentenced in the District Court and no timely appeal has been taken, or in the circuit court exercising original jurisdiction, or on appeal or transfer from the District Court; or

(D) the court has revoked the bail bond pursuant to Rule 4-216 or the defendant has been convicted and denied bail pending sentencing; or

(E) the defendant has been surrendered by the surety pursuant to section (h) of this Rule.

Cross reference: See Code, [Article 27, §616 ½ (e)(3)] Criminal Procedure Article, §5-208 (d) relating to discharge of a bail bond when the charges are stettet. See also Rule 4-349 pursuant to which the District Court judge may deny release on bond pending appeal or may impose different or greater conditions for release after conviction than were imposed for the pretrial release of the defendant pursuant to Rule 4-216.

(2) Refund of Collateral Security - Release of Lien

Upon the discharge of a bail bond and surrender of the receipt, the clerk shall return any collateral security to the person who deposited or pledged it and shall release any Declaration of Trust that was taken.

Source: This Rule is derived from former Rule 722 and M.D.R. 722.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-221 to conform to recent legislation, as follows:

Rule 4-221. PRELIMINARY HEARING IN DISTRICT COURT

. . .

(h) State's Attorney's Notification - Transfer of Papers

Upon the filing of a charging document in the circuit court pursuant to section (c) or (f) of this Rule, the State's Attorney shall promptly give notice of the filing to the clerk of the District Court, the defendant, and all witnesses subpoenaed for a preliminary hearing. When so notified, the clerk shall immediately forward all papers to the clerk of the circuit court in which the charging document is filed.

Cross reference: Code\_ [(1957, 1992 Repl. Vol.), Article 27, §592] Criminal Procedure Article, §4-103.

Source: This Rule is derived from former M.D.R. 727.



MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-248 to conform to recent legislation, as follows:

Rule 4-248. STET

(a) Disposition by Stet

On motion of the State's Attorney, the court may indefinitely postpone trial of a charge by marking the charge "stet" on the docket. The defendant need not be present when a charge is stetched but in that event the clerk shall send notice of the stet to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. A charge may not be stetched over the objection of the defendant. A stetched charge may be rescheduled for trial at the request of either party within one year and thereafter only by order of court for good cause shown.

(b) Effect of Stet

When a charge is stetched, the clerk shall take the action necessary to recall or revoke any outstanding warrant or detainer that could lead to the arrest or detention of the defendant because of the charge, unless the court orders that any warrant or detainer shall remain outstanding.

Committee note: For provisions relating to bail or recognizance when criminal charges are stetched see Code, [(1957, 1982 Repl.

Vol.), Article 27, § 6161/2] Criminal Procedure Article, §5-208.

Source: This Rule is derived from former Rule 782 c and d and M.D.R. 782 c and d.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-251 to add language providing for a hearing when a motion to transfer jurisdiction to the juvenile court is filed and for a hearing when a motion requesting that a child be held in a juvenile facility pending a transfer determination is filed, to correct a reference to an Article 27 provision which has been moved to the new Criminal Procedure Article, and to make certain stylistic changes, as follows:

Rule 4-251. MOTIONS IN DISTRICT COURT

(a) Content

A motion filed before trial in District Court shall be in writing unless the court otherwise directs, shall state the grounds upon which it is made, and shall set forth the relief sought. A motion alleging an illegal source of information as the basis for probable cause must be supported by precise and specific factual averments.

(b) When Made; Determination

(1) A motion asserting a defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense shall be made and determined before the first witness is sworn [or] and before evidence is received on the merits[, whichever is earlier].

(2) A motion filed before trial to suppress evidence or to exclude evidence by reason of any objection or defense shall be determined at trial.

(3) A motion requesting that a child be held in a juvenile facility pending a transfer determination shall be heard and determined not later than the next court day after it is filed unless the court sets a later date for good cause shown.

(4) A motion to transfer jurisdiction of an action to the juvenile court shall be determined within 10 days after the hearing on the motion.

(5) Other motions may be determined at any appropriate time.

(c) Effect of Determination Before Trial

(1) Generally

The court may grant the relief it deems appropriate including the dismissal of the charging document with or without prejudice.

(2) Transfer of Jurisdiction to Juvenile Court

If the court grants a motion to transfer jurisdiction of an action to the juvenile court, the court shall enter a written order waiving its jurisdiction and ordering that the defendant be subject to the jurisdiction and procedures of the juvenile court. In its order the court shall (A) release or continue the pretrial release of the defendant, subject to appropriate conditions reasonably necessary to ensure the appearance of the defendant in the juvenile court or (B) place the defendant in detention or shelter care pursuant to Code, Courts Article, §3-815. Until a

juvenile petition is filed, the charging document shall be considered a juvenile petition for the purpose of imposition and enforcement of conditions of release or placement of the defendant in detention or shelter care.

Cross reference: Code, [Article 27, §594A] Criminal Procedure Article, §4-202.

Source: This Rule is derived from former M.D.R. 736.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-252 to add language providing for a hearing when a motion to transfer jurisdiction to the juvenile court is filed and for a hearing when a motion requesting that a child be held in a juvenile facility pending a transfer determination is filed, to make a stylistic change in section (h), and to correct references to Article 27 provisions which have been moved into the new Criminal Procedure Article, as follows:

Rule 4-252. MOTIONS IN CIRCUIT COURT

(a) Mandatory Motions

In the circuit court, the following matters shall be raised by motion in conformity with this Rule and if not so raised are waived unless the court, for good cause shown, orders otherwise:

- (1) A defect in the institution of the prosecution;
- (2) A defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense;
- (3) An unlawful search, seizure, interception of wire or oral communication, or pretrial identification;
- (4) An unlawfully obtained admission, statement, or confession; and

(5) A request for joint or separate trial of defendants or offenses.

(b) Time for Filing Mandatory Motions

A motion under section (a) of this Rule shall be filed within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court pursuant to Rule 4-213 (c), except when discovery discloses the basis for a motion, the motion may be filed within five days after the discovery is furnished.

(c) Motion to Transfer to Juvenile Court

A request to transfer an action to juvenile court pursuant to Code, [Article 27, §594A] Criminal Procedure Article, §4-202 shall be made by separate motion entitled "Motion to Transfer to Juvenile Court." The motion shall be filed within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court pursuant to Rule 4-213 (c) and, if not so made, is waived unless the court, for good cause shown, orders otherwise.

(d) Other Motions

A motion asserting failure of the charging document to show jurisdiction in the court or to charge an offense may be raised and determined at any time. Any other defense, objection, or request capable of determination before trial without trial of the general issue, shall be raised by motion filed at any time before trial.

(e) Content

A motion filed pursuant to this Rule shall be in writing unless the court otherwise directs, shall state the grounds upon which it is made, and shall set forth the relief sought. A motion alleging an illegal source of information as the basis for probable cause must be supported by precise and specific factual averments. Every motion shall contain or be accompanied by a statement of points and citation of authorities.

(f) Response

A response, if made, shall be filed within 15 days after service of the motion and contain or be accompanied by a statement of points and citation of authorities.

(g) Determination

(1) Generally

Motions filed pursuant to this Rule shall be determined before trial and, to the extent practicable, before the day of trial, except that the court may defer until after trial its determination of a motion to dismiss for failure to obtain a speedy trial. If factual issues are involved in determining the motion, the court shall state its findings on the record.

(2) Motions Concerning Transfer of Jurisdiction to the Juvenile Court

(A) A motion requesting that a child be held in a juvenile facility pending a transfer determination shall be heard and determined not later than the next court day after it is filed unless the court sets a later date for good cause shown.

(B) A motion to transfer jurisdiction of an action to the



juvenile court shall be determined within 10 days after the hearing on the motion.

(h) Effect of Determination of Certain Motions

(1) Defect in Prosecution or Charging Document

If the court granted a motion based on a defect in the institution of the prosecution or in the charging document, it may order that the defendant be held in custody or that the conditions of pretrial release continue for a specified time, not to exceed ten days, pending the filing of a new charging document.

(2) Suppression of Evidence

(A) If the court grants a motion to suppress evidence, the evidence shall not be offered by the State at trial, except that suppressed evidence may be used in accordance with law for impeachment purposes. The court may not reconsider its grant of a motion to suppress evidence unless before trial the State files a motion for reconsideration based on (i) newly discovered evidence that could not have been discovered by due diligence in time to present it to the court before the court's ruling on the motion to suppress evidence, (ii) an error of law made by the court in granting the motion to suppress evidence, or (iii) a change in law. The court may hold a hearing on the motion to reconsider. Hearings held before trial shall, whenever practicable, be held before the judge who granted the motion to suppress. If the court reverses or modifies its grant of a motion to suppress, the judge shall prepare and file or dictate

into the record a statement of the reasons for the action taken.

(B) If the court denies a motion to suppress evidence, the ruling is binding at the trial unless the court, on the motion of a defendant and in the exercise of its discretion, grants a supplemental hearing or a hearing de novo and rules otherwise. A pretrial ruling denying the motion to suppress is reviewable on a motion for a new trial or on appeal of a conviction.

(3) Transfer of Jurisdiction to Juvenile Court

If the court grants a motion to transfer jurisdiction of an action to the juvenile court, the court shall enter a written order waiving its jurisdiction and ordering that the defendant be subject to the jurisdiction and procedures of the juvenile court. [The order] In its order the court shall (A) release or continue the pretrial release of the defendant, subject to appropriate conditions reasonably necessary to ensure the appearance of the defendant in the juvenile court or (B) place the defendant in detention or shelter care pursuant to Code, Courts Article, §3-815. Until a juvenile petition is filed, the charging document shall have the effect of a juvenile petition for the purpose of imposition and enforcement of conditions of release or placement of the defendant in detention or shelter care.

Cross reference: Code, [Article 27, §594A] Criminal Procedure Article, §4-202.

Committee note: Subsections (a)(1) and (2) include, but are not limited to allegations of improper selection and organization of the grand jury, disqualification of an individual grand juror, unauthorized presence of persons in the grand jury room, and other irregularities in the grand jury proceedings. Section (a) does not include such matters as former jeopardy, former

conviction, acquittal, statute of limitations, immunity, and the failure of the charging document to state an offense.

Source: This Rule is derived from former Rule 736.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-271 to add a sentence providing for a procedure for subsequent changes of the trial date, and to make a stylistic change to the Committee note at the end of section (b), as follows:

Rule 4-271. TRIAL DATE

(a) Trial Date in Circuit Court

(1) The date for trial in the circuit court shall be set within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the circuit court pursuant to Rule 4-213, and shall be not later than 180 days after the earlier of those events. When a case has been transferred from the District Court because of a demand for jury trial, and an appearance of counsel entered in the District Court was automatically entered in the circuit court pursuant to Rule 4-214 (a), the date of the appearance of counsel for purposes of this Rule is the date the case was docketed in the circuit court. On motion of a party, or on the court's initiative, and for good cause shown, the county administrative judge or that judge's designee may grant a change of a circuit court trial date. If a circuit court trial date is changed, any subsequent changes of the trial date may be made only by the county administrative

judge or that judge's designee for good cause shown.

(2) Upon a finding by the Chief Judge of the Court of Appeals that the number of demands for jury trial filed in the District Court for a county is having a critical impact on the efficient operation of the circuit court for that county, the Chief Judge, by Administrative Order, may exempt from this section cases transferred to that circuit court from the District Court because of a demand for jury trial.

(b) Change of Trial Date in District Court

The date for trial in the District Court may be changed on motion of a party, or on the court's initiative, and for good cause shown.

Committee note: [Section] Subsection (a)(1) of this Rule is intended to incorporate and continue the provisions of Rule 746 from which it is derived. Stylistic changes have been made.

Source: This Rule is derived as follows:

Section (a) is in part derived from former Rule 746 a and b, and is in part new.

Section (b) is derived from former M.D.R. 746.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-301 to conform to recent legislation, as follows:

Rule 4-301. BEGINNING OF TRIAL IN DISTRICT COURT

(a) Initial Procedures

Immediately before beginning a trial in District Court, the court shall (1) make certain the defendant has been furnished a copy of the charging document; (2) inform the defendant of each offense charged; (3) inform the defendant, when applicable, of the right to trial by jury; (4) comply with Rule 4-215, if necessary; and (5) thereafter, call upon the defendant to plead to each charge.

(b) Demand for Jury Trial

(1) Form and Time of Demand

A demand in the District Court for a jury trial shall be made either

(A) in writing and, unless otherwise ordered by the court or agreed by the parties, filed no later than 15 days before the scheduled trial date, or

(B) in open court on the trial date by the defendant and the defendant's counsel, if any.

(2) Procedure Following Demand

Upon a demand by the defendant for jury trial that deprives the District Court of jurisdiction pursuant to law, the clerk may serve a circuit court summons on the defendant requiring an appearance in the circuit court at a specified date and time. The clerk shall promptly transmit the case file to the clerk of the circuit court, who shall then file the charging document and, if the defendant was not served a circuit court summons by the clerk of the District Court, notify the defendant to appear before the circuit court. The circuit court shall proceed in accordance with Rule 4-213 (c) as if the appearance were by reason of execution of a warrant. Thereafter, except for the requirements of Code, [Article 27, §591] Criminal Procedure Article, §6-103 and Rule 4-271 (a), or unless the circuit court orders otherwise, pretrial procedures shall be governed by the rules in this Title applicable in the District Court.

Source: This Rule is derived as follows:

Section (a) is derived from former M.D.R. 751.

Section (b) is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-324 to conform to recent legislation, as follows:

Rule 4-324. MOTION FOR JUDGMENT OF ACQUITTAL

. . .

(b) Action by the Court

If the court grants a motion for judgment of acquittal or determines on its own motion that a judgment of acquittal should be granted, it shall enter the judgment or direct the clerk to enter the judgment and to note that it has been entered by direction of the court. The court shall specify each count or degree of an offense to which the judgment of acquittal applies.

Cross reference: Article 23 of the Maryland Declaration of Rights and Code, [(1957, 1992 Repl. Vol.), Article 27, §593] Criminal Procedure Article, §6-104.



MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-331 to conform to recent legislation , as follows:

Rule 4-331. MOTIONS FOR NEW TRIAL

. . .

(e) Disposition

The court may hold a hearing on any motion filed under this Rule and shall hold a hearing on a motion filed under section (c) if the motion satisfies the requirements of section (d) and a hearing was requested. The court may revise a judgment or set aside a verdict prior to entry of a judgment only on the record in open court. The court shall state its reasons for setting aside a judgment or verdict and granting a new trial.

Cross reference: Code, [Article 27, §§594 and 770] Criminal Procedure Article, §6-105 and §11-104.

Source: This Rule is derived from former Rule 770 and M.D.R. 770.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-340 to conform to recent legislation, as follows:

Rule 4-340. PROCEDURES REQUIRED AFTER SENTENCING IN CONTROLLED DANGEROUS SUBSTANCE CASES

(a) Applicability

This Rule applies to a defendant convicted of a controlled dangerous substance offense, as defined in Code, Article 27, §298A, committed on or after January 1, 1991. Title 5 of these rules does not apply to the determinations required to be made by the court under this Rule.

(b) Definitions

As used in this Rule:

(1) "conviction" includes probation on stay of entry of judgment pursuant to Code, [Article 27, §641] Criminal Procedure Article, §6-220; and

(2) "license" means a State-issued license as defined in Code, Article 41, §1-501.

(c) Preliminary Determinations by Court

Immediately after sentencing the defendant, the court shall determine from evidence in the case or from evidence or information supplied by the State's Attorney, the Division of

Parole and Probation, or the defendant:

(1) whether the defendant holds a license; and

(2) if so, whether the defendant has been previously convicted of a controlled dangerous substance offense committed on or after January 1, 1991.

(d) Automatic Reporting Where Prior Conviction Exists

If the defendant has a license and such a prior conviction, the court shall direct the clerk to certify and report the current conviction and licensing information required by Code, Article 27, §298A to the appropriate licensing authority.

(e) Determination by Court Where No Prior Conviction Exists

If the defendant holds a license but has no such prior conviction the court shall determine whether, prima facie, there is a relationship between the current conviction and the license, including:

(1) the defendant's ability to perform the tasks authorized by the license;

(2) whether the public will be protected if the defendant continues to perform the tasks authorized by the license;

(3) whether the nature and circumstances of the controlled dangerous substance offense warrant referral to the licensing authority; and

(4) any other facts that the court deems relevant.

(f) Reporting

If the court determines that there is a relationship

between the conviction and a license, the court shall direct the clerk to certify and report the current conviction and the licensing information required by Code, Article 27, §298A to the appropriate licensing authority. If the court determines that there is no relationship between the conviction and a license, no report shall be issued to the licensing authority.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-342 to conform to recent legislation, as follows:

Rule 4-342. SENTENCING -- PROCEDURE IN NON-CAPITAL CASES

. . .

(g) Credit for Time Spent in Custody

Time spent in custody shall be credited against a sentence pursuant to Code, [Article 27, §638C] Criminal Procedure Article, §6-218.

(h) Advice to the Defendant

At the time of imposing sentence, the court shall cause the defendant to be advised of any right of appeal, any right of review of the sentence under the Review of Criminal Sentences Act, any right to move for modification or reduction of the sentence, and the time allowed for the exercise of these rights. At the time of imposing a sentence of incarceration for a violent crime as defined in Code, Correctional Services Article, §7-101 and for which a defendant will be eligible for parole as provided in §7-301 (c) or (d) of the Correctional Services Article, the court shall state in open court the minimum time the defendant must serve for the violent crime before becoming eligible for parole. The circuit court shall cause the defendant who was

sentenced in circuit court to be advised that within ten days after filing an appeal, the defendant must order in writing a transcript from the court stenographer.

Cross reference: Code, [Article 27, §§645JA-645JG (Review of Criminal Sentences Act)] Criminal Procedure Article, §§8-102 - 8-109.

Committee note: Code, [Article 27, §640] Criminal Procedure Article, §6-217 provides that the court's statement of the minimum time the defendant must serve for the violent crime before becoming eligible for parole is for informational purposes only and may not be considered a part of the sentence, and the failure of a court to comply with this requirement does not affect the legality or efficacy of the sentence imposed.

(i) Terms for Release

On request of the defendant, the court shall determine the defendant's eligibility for release under Rule 4-349 and the terms for any release.

(j) Restitution from a Parent

If restitution from a parent of the defendant is sought pursuant to Code, [Article 27, §807] Criminal Procedure Article, §11-604, the State shall serve the parent with notice of intention to seek restitution and file a copy of the notice with the court. The court may not enter a judgment of restitution against the parent unless the parent has been afforded a reasonable opportunity to be heard and to present evidence. The hearing on parental restitution may be part of the defendant's sentencing hearing.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-343 (j) by changing the language in Section II B of the Report of Trial Judge to be consistent with statutory changes, as follows:

Rule 4-343. SENTENCING -- PROCEDURE IN CAPITAL CASES

. . .

(j) Report of Judge

After sentence is imposed, the judge promptly shall prepare and send to the parties a report in the following form:

(CAPTION)

REPORT OF TRIAL JUDGE

I. Data Concerning Defendant

A. Date of Birth

B. Sex

C. Race

D. Address

E. Length of Time in Community

F. Reputation in Community

G. Family Situation and Background

1. Situation at time of offense (describe defendant's living situation including marital status and number

and age of children)

2. Family history (describe family history including pertinent data about parents and siblings)

H. Education

I. Work Record

J. Prior Criminal Record and Institutional History (list any prior convictions, disposition, and periods of incarceration)

K. Military History

L. Pertinent Physical or Mental Characteristics or History

M. Other Significant Data About Defendant

## II. Data Concerning Offense

A. Briefly describe facts of offense (include time, place, and manner of death; weapon, if any; other participants and nature of participation)

B. Was there any evidence that the defendant was [under the influence of] impaired by alcohol or drugs at the time of the offense? If so describe.

C. Did the defendant know the victim prior to the offense?

Yes ..... No .....

1. If so, describe relationship.

2. Did the prior relationship in any way precipitate the offense? If so, explain.

D. Did the victim's behavior in any way provoke the offense? If so, explain.



E. Data Concerning Victim

1. Name
2. Date of Birth
3. Sex
4. Race
5. Length of time in community
6. Reputation in community

F. Any Other Significant Data About Offense

III. A. Plea Entered by Defendant:

Not guilty .....; guilty .....; not criminally  
responsible .....

B. Mode of Trial:

Court ..... Jury .....

If there was a jury trial, did defendant challenge the  
jury selection or composition? If so, explain.

C. Counsel

1. Name
2. Address
3. Appointed or retained

(If more than one attorney represented defendant,  
provide data on each and include stage of proceeding  
at which the representation was furnished.)

D. Pre-Trial Publicity - Did defendant request a mistrial or  
a change of venue on the basis of publicity? If so,  
explain. Attach copies of any motions made and exhibits

filed.

- E. Was defendant charged with other offenses arising out of the same incident? If so, list charges; state whether they were tried at same proceeding, and give disposition.

#### IV. Data Concerning Sentencing Proceeding

- A. List aggravating circumstance(s) upon which State relied in the pretrial notice.

- B. Was the proceeding conducted

before same judge as trial? .....

before same jury? .....

If the sentencing proceeding was conducted before a jury other than the trial jury, did the defendant challenge the selection or composition of the jury? If so, explain.

- C. Counsel - If counsel at sentencing was different from trial counsel, give information requested in III C above.

- D. Which aggravating and mitigating circumstances were raised by the evidence?

- E. On which aggravating and mitigating circumstances were the jury instructed?

- F. Sentence imposed:
- |   |
|---|
| Life imprisonment                                   |
| Death   |
| Life imprisonment without the possibility of parole |

#### V. Chronology

Date of Offense

Arrest

Charge

Notification of intention to seek penalty of death

Trial (guilt/innocence) - began and ended

Post-trial Motions Disposed of

Sentencing Proceeding - began and ended

Sentence Imposed

VI. Recommendation of Trial Court As To Whether Imposition of  
Sentence of Death is Justified.

VII. A copy of the Findings and Sentencing Determination made in  
this action is attached to and made a part of this report.

.....  
Judge

#### CERTIFICATION

I certify that on the ..... day of .....,  
(month)

....., I sent copies of this report to counsel for the parties  
(year)

for comment and have attached any comments made by them to this  
report.

.....  
Judge

Within five days after receipt of the report, the parties may  
submit to the judge written comments concerning the factual  
accuracy of the report. The judge promptly shall file with the

clerk of the trial court and with the Clerk of the Court of Appeals the report in final form, noting any changes made, together with any comments of the parties.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-344 to conform to recent legislation, as follows:

Rule 4-344. SENTENCING -- REVIEW

(a) Application - When Filed

Any application for review of a sentence under the Review of Criminal Sentences Act, Code, [Article 27, §§ 645JA-645JG] Criminal Procedure Article, §§8-102 - 8-109, shall be filed in the sentencing court within 30 days after the imposition of sentence or at a later time permitted by the Act. The clerk shall promptly notify the defendant's counsel, if any, the State's Attorney, and the Circuit Administrative Judge of the filing of the application.

. . .

(f) Review Panel -- Decision

Whether or not an appeal has been taken, the Review Panel shall file a written decision with the clerk within 30 days after the application is filed. If the sentence is to be increased, the defendant shall be brought before the panel and resentenced pursuant to Rule 4-342. If the sentence is reduced or not changed, the defendant need not be brought before the Review Panel. In either case, the Review Panel shall state the reasons

for its decision and shall furnish a copy of the decision to the defendant, defendant's counsel, and the State's Attorney.

Cross reference: Concerning victim notification and other requirements when a sentence is changed by the review panel, see Code, [Article 27, §§645JC and 645JE] Criminal Procedure Article, §§8-103 - 8-108.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-351 to conform to recent legislation, as follows:

Rule 4-351. COMMITMENT RECORD

(a) Content

When a person is convicted of an offense and sentenced to imprisonment, the clerk shall deliver to the officer into whose custody the defendant has been placed a commitment record containing:

- (1) The name and date of birth of the defendant;
- (2) The docket reference of the action and the name of the sentencing judge;
- (3) The offense and each count for which the defendant was sentenced;
- (4) The sentence for each count, the date the sentence was imposed, the date from which the sentence runs, and any credit allowed to the defendant by law;
- (5) A statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence.

Cross reference: See Code, [Article 27, §643C (c)(1)] Criminal Procedure Article, §6-216 (c) concerning Maryland Sentencing

Guidelines Worksheets prepared by a court.

(b) Effect of Error

An omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction.

Source: This Rule is derived from former Rule 777 and M.D.R. 777.



MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-361 to conform to recent legislation, as follows:

Rule 4-361. DISABILITY OF JUDGE

. . .

(b) During Jury Trial in Circuit Court

If by reason of termination of office, absence, death, sickness, or other disability, the judge before whom a jury trial in circuit court has commenced is unable to proceed with the trial, any other judge authorized to act in that court upon certifying that he or she has become familiar with the record of the trial, may proceed with and finish the trial.

Cross reference: Code\_ [(1957, 1992 Repl. Vol.), Article 27, §642] Criminal Procedure Article, §6-224.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 400 - POST CONVICTION PROCEDURE

AMEND Rule 4-406 to conform to recent legislation, as follows:

Rule 4-406. HEARING

(a) When Required

A hearing shall be held promptly on a petition under the Uniform Post Conviction Procedure Act unless the parties stipulate that the facts stated in the petition are true and that the facts and applicable law justify the granting of relief. If a defendant requests that the court reopen a post conviction proceeding that was previously concluded, the court shall determine whether a hearing will be held, but it may not reopen the proceeding or grant the relief requested without a hearing unless the parties stipulate that the facts stated in the petition are true and that the facts and applicable law justify the granting of relief.

Cross reference: For time requirements applicable to hearings in death penalty cases, see Code, [Article 27, §645A (g)] Criminal Procedure Article, §7-204.

(b) Judge

The hearing shall not be held by the judge who presided at trial except with the consent of the petitioner.

(c) Evidence

Evidence may be presented by affidavit, deposition, oral testimony, or in any other form as the court finds convenient and just. In the interest of justice, the court may decline to require strict application of the rules in Title 5, except those relating to the competency of witnesses.

(d) Presence of Petitioner

The petitioner has the right to be present at any hearing on the petition.

Cross reference: For post conviction procedure, right to counsel and hearing, see Code, [Art. 27, §645A] Criminal Procedure Article, §§7-101 - 7-108 and §§7-201 - 7-204; victim notification, [Article 27, §770] Criminal Procedure Article, §11-104.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former Rule BK44 c.

Section (c) is derived from former Rule BK44 d.

Section (d) is derived from former Rule BK44 e.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-501 to conform to recent legislation, as follows:

Rule 4-501. APPLICABILITY

The procedure provided by this Chapter is exclusive and mandatory for use in all judicial proceedings for expungement of records whether pursuant to [Article 27, §§735 through 741] Code, Criminal Procedure Article, §§10-101 through 10-109 or otherwise.

Cross reference: Expungement of criminal charges transferred to the juvenile court, Rule 11-601.

Source: This Rule is derived from former Rule EX2.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-502 to conform to recent legislation, as follows:

Rule 4-502. EXPUNGEMENT DEFINITIONS

The following definitions apply in this Chapter and in Forms 4-503.1 through 4-508.3:

(a) Application

"Application" means the written request for expungement of police records filed pursuant to Code, [Article 27, §736 (f)] Criminal Procedure Article §10-103 and Rule 4-503.

(b) Central Repository

"Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(c) Court

"Court" means the Court of Appeals, Court of Special Appeals, any circuit court, and the District Court.

(d) Court Records

"Court records" means all official records maintained by the clerk or other personnel pertaining to any criminal action or proceeding for expungement. It includes indices, docket entries, charging documents, pleadings, memoranda, assignment schedules,

disposition sheets, transcriptions of proceedings, electronic recordings, orders judgments, and decrees. It does not include: records pertaining to violations of the vehicle laws of the State or of any other traffic law, ordinance, or regulation; written opinions of a court; cash receipt and disbursement records necessary for audit purposes; or a court reporter's transcript of proceedings involving multiple defendants.

(e) Expungement

"Expungement" means the effective removal of police and court records from public inspection:

(1) by obliteration; or

(2) by removal to a separate secure area to which the public and other persons having no legitimate reason for being there are denied access; or

(3) if effective access to a record can be obtained only by reference to other records, by the expungement of the other records or the part of them providing the access.

(f) Law Enforcement Agency

"Law enforcement agency" means any State, county, and municipal police department or agency, sheriff's office, the State's Attorney's office, and the Attorney General's office.

(g) Notice

"Notice" means a written request for expungement of police records given by a person pursuant to the Code, [Article 27, §736 (a)] Criminal Procedure Article, §10-103, unless the context clearly requires a contrary meaning.

(h) Petition

"Petition" means a written request for expungement of court and police records filed by a person pursuant to Code, [Article 27, §737 (a)] Criminal Procedure Article, §10-105 (a) and Rule 4-504.

(i) Police Records

"Police records" means all official records maintained by a law enforcement agency, a booking facility, or the Central Repository pertaining to the arrest and detention of or further proceeding against an individual for a criminal charge for a suspected violation of a criminal law, or a violation of Code, Transportation Article for which a term of imprisonment may be imposed. "Police records" does not include investigatory files, police work-product records used solely for police investigation purposes, or records pertaining to nonincarcerable violations of the vehicle laws of the State or of any other traffic law, ordinance, or regulation.

(j) Probation Before Judgment

"Probation before judgment" means disposition of a charge pursuant to Code, [Article 27, §641] Criminal Procedure Article, §6-220; it also means probation prior to judgment pursuant to former Code, Article 27, §641, a disposition pursuant to former Code, Article 27, §292 (b), probation without finding a verdict pursuant to former Code, Article 27, §641 prior to July 1, 1975, and a disposition pursuant to former Section 22-83 of the Code of Public Local Laws of Baltimore City (1969 Edition).

(k) Records

"Records" means "police records" and "court records."

(l) Service

"Service" with respect to the application or petition means mailing a copy by certified mail or delivering it to any person admitting service, and with respect to any answer, notice, or order of court required by this Rule or court order to be served means mailing by first class mail.

(m) Transfer

"Transfer" means the act, done pursuant to an order of court, of removing an action or proceeding from the court or docket in which it was originally filed or docketed to such other proper court or docket as the nature of the case may require.

Source: This Rule is derived from former Rule EX1.



MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-503 to conform to recent legislation, as follows:

Rule 4-503. APPLICATION FOR EXPUNGEMENT WHEN NO CHARGES FILED

(a) Scope and Venue

An application for expungement of police records may be filed by any person who has been arrested, detained, or confined by a law enforcement agency, and has subsequently been released without having been charged with a crime, if (1) the applicant has first served on the law enforcement agency that arrested, detained, or confined the applicant a notice and request for expungement in the form set forth at the end of this Title as Form 4-503.1, which, if served within three years after the applicant's arrest, detention, or confinement, shall be accompanied by a duly executed General Waiver and Release in the form set forth as Form 4-503.2; and (2) the request for expungement has been denied or has not been acted upon within 60 days after its receipt. The application shall be filed in the District Court for the county in which the applicant was first arrested, detained, or confined.

Cross reference: Code, [(1957, 1992 Repl. Vol.) Article 27, §736] Criminal Procedure Article, §10-103.

(b) Contents - Time for Filing

The application shall be in the form set forth at the end of this Title as Form 4-503.3 and shall be filed within 30 days after service of notice that the request for expungement is denied by the agency or, if no action is taken by the agency, within 30 days after expiration of the time period provided in section (a) (2) of this Rule.

(c) Copies for Service

The applicant shall file with the clerk a sufficient number of copies of the application for service on the State's Attorney and each law enforcement agency named in the application.

(d) Procedure Upon Filing

Upon filing of an application, the clerk shall docket the proceeding, issue a Notice of Hearing in the form set forth at the end of this Title as Form 4-503.4, and serve copies of the application and notice on the State's Attorney and each law enforcement agency named in the application.

Source: This Rule is derived from former Rule EX3 a and c 1 and 2.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-504 to conform to recent legislation, as follows:

Rule 4-504. PETITION FOR EXPUNGEMENT WHEN CHARGES FILED

(a) Scope and Venue

A petition for expungement of records may be filed by any defendant who has been charged with the commission of a crime and is eligible under Code, [Article 27, §737] Criminal Procedure Article, §10-105 to request expungement. The petition shall be filed in the original action. If that action was commenced in one court and transferred to another, the petition shall be filed in the court to which the action was transferred. If an appeal was taken, the petition shall be filed in the circuit court that had jurisdiction over the action.

(b) Contents - Time for Filing

The petition shall be substantially in the form set forth at the end of this Title as Form 4-504.1. The petition shall be filed within the times prescribed in Code, [Article 27, §737] Criminal Procedure Article, §10-105. When required by law, the petitioner shall file with the petition a duly executed General Waiver and Release in the form set forth at the end of this Title as Form 4-503.2.

(c) Copies for Service

The petitioner shall file with the clerk a sufficient number of copies of the petition for service on the State's Attorney and each law enforcement agency named in the petition.

(d) Procedure upon Filing

Upon filing of a petition, the clerk shall serve copies on the State's Attorney and each law enforcement agency named in the petition.

(e) Retrieval or Reconstruction of Case File

Upon the filing of a petition for expungement of records in any action in which the original file has been transferred to a Hall of Records Commission facility for storage, or has been destroyed, whether after having been microfilmed or not, the clerk shall retrieve the original case file from the Hall of Records Commission facility, or shall cause a reconstructed case file to be prepared from the microfilmed record, or from the docket entries.

Source: This Rule is derived from former Rule EX3 b and c.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-505 to conform to recent legislation, as follows:

Rule 4-505. ANSWER TO APPLICATION OR PETITION

(a) Answer to Application

Within 30 days after service of an application for expungement, the law enforcement agency shall file an answer, if it has not previously filed a timely notice of denial or if it wishes to assert additional reasons for denial at the hearing, and serve a copy on the applicant or the attorney of record.

(b) Answer to Petition

Within 30 days after service of a petition for expungement, the State's Attorney shall file an answer, and serve a copy on the petitioner or the attorney of record.

Cross reference: Code, [Article 27, § 737 (i)] Criminal Procedure Article, §10-105 (d).

(c) Contents

An answer objecting to expungement of records shall state in detail the specific grounds for objection. A law enforcement agency or State's Attorney may by answer consent to the expungement of an applicant's or petitioner's record.

(d) Effect of Failure to Answer

The failure of a law enforcement agency or State's

Attorney to file an answer within the 30 day period constitutes a consent to the expungement as requested.

Source: This Rule is derived from former Rule EX4.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-507 to conform to recent legislation, as follows:

Rule 4-507. HEARING

(a) On Application

In the case of an application for expungement, a hearing shall be held not later than 45 days after the filing of the application.

Cross reference: Code, [(1957, 1992 Repl. Vol.) Article 27, §736 (f)] Criminal Procedure Article, §10-103 (f).

(b) On Petition

In the case of a petition for expungement, a hearing shall be held only if the State's Attorney or law enforcement agency objects to the petition by way of timely answer.

Cross reference: Code, [Article 27, §737 (j)] Criminal Procedure Article, §10-105 (e).

Source: This Rule is derived from former Rule EX6.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-508 to conform to recent legislation, as follows:

Rule 4-508. COURT ORDER FOR EXPUNGEMENT OF RECORDS

(a) Content

An order for expungement of records shall be substantially in the form set forth at the end of this Title as Form 4-508.1, as modified to suit the circumstances of the case. If the court determines that the procedures for expungement of court records set forth in Rule 4-511 are not practicable in the circumstances, the order shall specify the alternative procedures to be followed.

Cross reference: Code, [Article 27, §§736 (f) and 737 (1)]  
Criminal Procedure Article, §§10-103 (f) and 10-105(f).

(b) Finality

An order of court for expungement of records, or an order denying an application or petition for expungement, is a final judgment.

Cross reference: Code, (1957, 1989 Repl. Vol.) Courts Article, §12-301.

(c) Service of Order and Compliance Form

Upon entry of a court order granting or denying expungement, the clerk forthwith shall serve a true copy of the



order on all parties to the proceeding. Thirty days after the entry of an order granting expungement or upon expiration of any stay, the clerk shall serve on each custodian of records designated in the order and on the Central Repository a true copy of the order together with a blank form of Certificate of Compliance set forth at the end of this Title as Form 4-508.3.

Source: This Rule is derived from former Rule EX7.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-509 to conform to recent legislation, as follows:

Rule 4-509. APPEAL

(a) How Taken

Any party may appeal within 30 days after entry of the order by filing a notice of appeal with the clerk of the court from which the appeal is taken and by serving a copy on the opposing party or attorney.

(b) Stay

The filing of a notice of appeal stays the court order pending the determination of the appeal.

Cross reference: Code, [Article 27, §737 (k)] Criminal Procedure Article, §10-105 (g).

Source: This Rule is derived from former Rule EX8.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-512 to conform to recent legislation, as follows:

Rule 4-512. DISPOSITION OF EXPUNGED RECORDS

Disposition of expunged records shall be as follows:

(a) Removal

The original of all court files and records ordered to be expunged and any unitized microform of record shall be removed from their usual and customary filing or storage location.

(b) Sealing - Unsealing

The original case file, and all other court records in the clerk's custody relating or referring to the action or proceeding, including any unitized microform of records and certificates of compliance, shall be sealed in a manila envelope on which the docket or case file number, and a clerk's Certificate of Expungement and Caution, shall be endorsed or stamped as follows:

CERTIFICATE OF EXPUNGEMENT AND CAUTION

I HEREBY CERTIFY that this sealed envelope contains the case file relating to the action or proceeding docketed or filed under the above mentioned Docket or Case File Number, which records have been expunged pursuant to an Order of Court dated the

..... day of ....., .....  
(month) (year)

CAUTION: This envelope is not to be unsealed or the contents or any part thereof disclosed to any person except pursuant to a written Order of Court, under penalty of a fine of up to \$1,000.00, imprisonment for up to one year, or both, and to dismissal from employment, as provided by Section [740 (c) of Article 27] 10-108 of the Criminal Procedure Article of the Annotated Code of Maryland.

DATED this ..... day of ....., .....  
(month) (year)

.....  
Clerk/Deputy Clerk

Sealed expunged records may be unsealed on written order of court on good cause shown, and the court may by order permit access to expunged records in the interest of justice.

(c) Alphabetical Listing

A separate alphabetical listing of names of persons whose court records have been expunged shall be maintained by the clerk. The listing shall contain a reference to the docket or case file number of the action or proceeding in which expungement was ordered.

(d) Notices - General Waivers and Releases

Notices and General Waivers and Releases shall be maintained by the law enforcement agency or the clerk, as the case may be, in a denied access area, until the expiration of any

applicable statute of limitations, after which time they may be destroyed by shredding.

Cross reference: Code, [(1957, 1992 Repl. Vol.) Article 27, §736 (b)] Criminal Procedure Article, §10-103 (b).

(e) Storage in Denied Access Area on Premises - Prohibition on Transfer

All expunged records shall be filed and maintained by the clerk in numerical sequence by docket or case file number, together with the Index of Expunged Records, in one or more locked filing cabinets to be located on the premises of the clerk's office but in a separate secure area to which the public and other persons having no legitimate reason for being there are denied access. Expunged records shall not be transferred to any Hall of Records facility.

Cross reference: Code, [Article 27, §735 (c)] Criminal Procedure Article, §10-101 (e).

(f) Minimum Period of Retention

Expunged records shall be retained by the clerk for a minimum period of three years. Expunged case files in multiple defendant cases shall be retained by the clerk until the prison terms, if any, of all co-defendants convicted in the action have been served.

(g) Destruction Method and Schedule

Upon the expiration of the minimum retention period provided in section (f) of this Rule, and unless otherwise ordered by the court, expunged records may be destroyed by the clerk by shredding or other method of complete destruction. Upon

destruction of the expunged records, the name of the person whose court records have been destroyed shall be deleted from the listing maintained under section (c) of this Rule. Destruction of expunged records shall promptly be reported to the Records Management Division of the Hall of Records Commission on an appropriate destruction schedule.

Source: This Rule is derived from former Rule EX11.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 600 - CRIMINAL INVESTIGATIONS AND  
MISCELLANEOUS PROVISIONS

AMEND Rule 4-601 to conform to recent legislation, as follows:

Rule 4-601. SEARCH WARRANTS

(a) Issuance - Authority

A search warrant may issue only as authorized by law. Title 5 of these rules does not apply to the issuance of a search warrant.

Cross reference: Code, [Article 27, §551] Criminal Procedure Article, §1-203.

(b) Retention of Application and Affidavits - Secrecy

A judge issuing a search warrant shall note on the warrant the date of issuance and shall retain a copy of the warrant, application, and supporting affidavit. The search warrant shall be issued with all practicable secrecy. A supporting affidavit may be sealed for not more than 30 days as provided by Code, [Article 27, §551 (d)] Criminal Procedure Article, §1-203 (e). The warrant and application, affidavit, or other papers upon which the warrant is based shall not be filed with the clerk until the search warrant is returned executed pursuant to section (e) of this Rule.

(c) Inventory

An officer shall make and sign a written inventory of all property seized under a search warrant. At the time the search warrant is executed, a copy of the inventory together with a copy of the search warrant, application, and supporting affidavit, except an affidavit that has been sealed by order of court, shall be left with the person from whom the property is taken if the person is present or, if that person is not present, with the person apparently in charge of the premises from which the property is taken. If neither of those persons is present at the time the search warrant is executed, the copies shall be left in a conspicuous place at the premises from which the property is taken. The officer preparing the inventory shall verify it before making the return. Upon the expiration of the order sealing an affidavit, the affidavit shall be unsealed and delivered within 15 days to the person from whom the property was taken or, if that person is not present, the person apparently in charge of the premises from which the property was taken.

(d) Return

An executed warrant shall be returned to the issuing judge, or if that judge is not immediately available, to another judge of the same circuit if issued by a circuit court, or of the same district if issued by the District Court, as promptly as possible and in any event within ten days after the date the search warrant is executed or within any earlier time set forth in the search warrant for its return. The return shall be accompanied by the verified inventory. A search warrant



unexecuted within 15 days after its issuance shall be returned promptly to the issuing judge.

(e) Executed Search Warrants

The judge to whom an executed search warrant is returned shall attach to the search warrant copies of the return, the inventory, and all other papers in connection with the issuance, execution, and return, including the copies retained by the issuing judge, and shall file them with the clerk of the court for the county in which the property was seized. The papers filed with the clerk shall be sealed and shall be opened for inspection only upon order of the court. The clerk shall maintain a confidential index of the search warrants.

(f) Unexecuted Search Warrants

The judge to whom an unexecuted search warrant is returned may destroy the search warrant and related papers or make any other disposition the judge deems proper.

(g) Inspection of Warrant, Inventory, and Other Papers

Upon application filed by a person from whom or from whose premises property is taken under a search warrant or by a person having an interest in the property or by a person aggrieved by a search or seizure, the court of the county in which the search warrant is filed shall order that the warrant, inventory, and other related papers filed be made available to the person or to that person's attorney for inspection and copying. Upon the filing of the application, the court may order that notice thereof be given to the State's Attorney.

(h) Contempt

Except for disclosures required for the execution of a search warrant or directed by this Rule or by order of court issued pursuant to this Rule, a person who discloses before its execution that a search warrant has been applied for or issued, or a public officer or employee who discloses after its execution the contents of a search warrant or the contents of any other paper filed with it, may be prosecuted for criminal contempt of court.

Source: This Rule is derived from former Rule 780 and M.D.R. 780.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

BAIL BOND FORMS

AMEND Form 4-504.1 to add a reference to Code, Article 27, §388A or §388B which would comply with statutory changes and to correct a reference to an Article 27 provision which has been moved into the new Criminal Procedure Article, as follows:

Form 4-504.1. PETITION FOR EXPUNGEMENT OF RECORDS

(Caption)

PETITION FOR EXPUNGEMENT OF RECORDS

1. (Check one of the following boxes) On or about \_\_\_\_\_,  
(Date)

I was [ ] arrested, [ ] served with a summons, or [ ] served  
with a citation by an officer of the \_\_\_\_\_  
(Law Enforcement Agency)  
at \_\_\_\_\_, Maryland, as  
a result of the following incident \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. I was charged with the offense of \_\_\_\_\_  
\_\_\_\_\_.

3. On or about \_\_\_\_\_,  
(Date)

the charge was disposed of as follows (check one of the following

boxes):

- [ ] I was acquitted and either three years have passed since disposition or a General Waiver and Release is attached.
- [ ] The charge was dismissed or quashed and either three years have passed since disposition or a General Waiver and Release is attached.
- [ ] A judgment of probation before judgment was entered on a charge that is not a violation of Code\*, Transportation Article, §21-902 or Code\*, Article 27, §388A or §388B and either (a) at least three years have passed since the disposition, or (b) I have been discharged from probation, whichever is later. Since the date of disposition, I have not been convicted of any crime, other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment; and I am not now a defendant in any pending criminal action other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.
- [ ] A Nolle Prosequi was entered and either three years have passed since disposition or a General Waiver and Release is attached. Since the date of disposition, I have not been convicted of any crime, other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment; and I am not

now a defendant in any pending criminal action other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

[ ] The proceeding was placed on the Stet docket and three years have passed since disposition. Since the date of disposition, I have not been convicted of any crime, other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment; and I am not now a defendant in any pending criminal action other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

[ ] The case was compromised pursuant to Code\*, Article 27, §12A-5 or former Code\*, Article 10, §37 and three years have passed since disposition.

[ ] On or about \_\_\_\_\_ , I was granted  
(Date)

a full and unconditional pardon by the Governor for the one criminal act, not a crime of violence as defined in Code\*, Article 27, §643B (a), of which I was convicted. More than five years, but not more than ten years, have passed since the Governor signed the pardon, and since the date the Governor signed the pardon I have not been convicted of any crime, other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a

possible sentence of imprisonment; and I am not now a defendant in any pending criminal action other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

WHEREFORE, I request the Court to enter an Order for Expungement of all police and court records pertaining to the above arrest, detention, confinement, and charges.

I solemnly affirm under the penalties of perjury that the contents of this Petition are true to the best of my knowledge, information and belief, and that the charge to which this Petition relates was not made for any nonincarcerable violation of the Vehicle Laws of the State of Maryland, or any traffic law, ordinance, or regulation, nor is it part of a unit the expungement of which is precluded under Code\*, [Article 27, §738] Criminal Procedure Article, §10-107.

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(Date)

---

Signature

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(Address)

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(Telephone No.)

\* References to "Code" in this Petition are to the Annotated Code of Maryland.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

BAIL BOND FORMS

AMEND Form 4-503.2 to conform to recent legislation, as follows:

Form 4-503.2. GENERAL WAIVER AND RELEASE

GENERAL WAIVER AND RELEASE

I, ....., hereby release and  
forever discharge .....  
(complainant)

and the .....  
(law enforcement agency)

all of its officers, agents and employees, and any and all other  
persons from any and all claims which I may have for wrongful  
conduct by reason of my arrest, detention, or confinement on or  
about .....

This General Waiver and Release is conditioned on the  
expungement of the record of my arrest, detention, or confinement  
and compliance with Code\*, [Article 27, §736(c), or §737]  
Criminal Procedure Article, §10-103 (c) or §10-105, as  
applicable, and shall be void if these conditions are not met.

WITNESS my hand and seal this .....  
(Date)

TESTE:

.....  
Witness

.....(Seal)  
Signature

\* The reference to "Code" in this General Waiver and Release is to the Annotated Code of Maryland.



MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 600 - WITNESSES

AMEND Rule 5-615 to conform to recent legislation and to add a certain cross reference, as follows:

Rule 5-615. EXCLUSION OF WITNESSES

(a) In General

Except as provided in sections (b) and (c) of this Rule, upon the request of a party made before testimony begins, the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses. When necessary for proper protection of the defendant in a criminal action, an identification witness may be excluded before the defendant appears in open court. The court may order the exclusion of a witness on its own initiative or upon the request of a party at any time. The court may continue the exclusion of a witness following the testimony of that witness if a party represents that the witness is likely to be recalled to give further testimony.

Cross reference: For circumstances when the exclusion of a witness may be inappropriate, see *Tharp v. State*, 362 Md. 77 (2000).

(b) Witnesses Not to be Excluded

A court shall not exclude pursuant to this Rule

(1) a party who is a natural person,

(2) an officer or employee of a party that is not a natural person designated as its representative by its attorney,

(3) an expert who is to render an opinion based on testimony given at the trial,

(4) a person whose presence is shown by a party to be essential to the presentation of the party's cause, such as an expert necessary to advise and assist counsel, or

(5) a victim of a crime of violence or the representative of such a deceased or disabled victim to the extent required by statute.

Cross reference: Code, [Article 27, §773] Criminal Procedure Article, §11-302; Rule 4-231.

(c) Permissive Non-exclusion

The court may permit a child witness's parents or another person having a supportive relationship with the child to remain in court during the child's testimony.

(d) Nondisclosure

(1) A party or an attorney may not disclose to a witness excluded under this Rule the nature, substance, or purpose of testimony, exhibits, or other evidence introduced during the witness's absence.

(2) The court may, and upon request of a party shall, order the witness and any other persons present in the courtroom not to disclose to a witness excluded under this Rule the nature, substance, or purpose of testimony, exhibits, or other evidence introduced during the witness's absence.

(e) Exclusion of Testimony

The court may exclude all or part of the testimony of the witness who receives information in violation of this Rule.

Cross reference: *McGill v. Gore Dump Trailer Leasing, Inc.*, 86 Md. App. 416 (1991).

Source: This Rule is derived from F.R.Ev. 615 and Rules 2-513, 3-513, and 4-321.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-204 to conform to recent legislation, as follows:

Rule 8-204. APPLICATION FOR LEAVE TO APPEAL TO COURT OF SPECIAL APPEALS

(a) Scope

This Rule applies to applications for leave to appeal to the Court of Special Appeals.

Cross reference: For Code provisions governing applications for leave to appeal, see Courts Article, §3-707 concerning bail; Courts Article, §12-302 (e) concerning guilty plea cases; Courts Article, §12-302 (g) concerning revocation of probation cases; [Article 27, §776] Criminal Procedure Article, §11-103 concerning victims of violent crimes; [Article 27, §645-I] Criminal Procedure Article, §7-109 concerning post conviction cases; Correctional Services Article, §10-206 et seq. concerning inmate grievances; and Health-General Article, §§12-117 (e)(2), 12-118 (d)(2), and 12-120 (k)(2) concerning continued commitment, conditional release, or discharge of an individual committed as not criminally responsible by reason of insanity or incompetent to stand trial.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS  
AND COURT OF SPECIAL APPEALS  
CHAPTER 400 - PRELIMINARY PROCEDURES

AMEND Rule 8-422 to conform to recent legislation and to make a certain stylistic change, as follows:

Rule 8-422. STAY OF ENFORCEMENT OF JUDGMENT

(a) Generally

Except as otherwise provided in the Code or Rule 2-632, an appellant may stay the enforcement of a civil judgment, other than for injunctive relief, from which an appeal is taken by filing a supersedeas bond under Rule 8-423, alternative security as prescribed by Rule 1-402 (e), or other security as provided in Rule 8-424. The bond or other security may be filed with the clerk of the lower court at any time before satisfaction of the judgment, but enforcement shall be stayed only from the time the security is filed. Stay of an order granting an injunction is governed by Rules 2-632 and 8-425.

Cross reference: For provisions permitting a stay without the filing of a bond, see Code, [Article 27, §645-I] Criminal Procedure Article, §7-109; Family Law Article, § 5-518; Courts Article, §12-701 (a)(1). For provisions limiting the extent of the stay upon the filing of a bond, see Code, Article 2B, §16-101, Courts and Judicial Proceedings Article, §12-701 (a)(2); Code, Insurance Article §2-215 (j)(2); Tax-Property Article, §14-514. For general provisions governing bonds filed in civil actions, see Title 1, Chapter 400 of these Rules[, Chapter 400].

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MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING

PARENTAL RIGHTS

AMEND Rule 9-105 to conform to statutory changes pertaining to notice to parents of persons to be adopted and to require publication of the show cause order in the county of a parent's last known address under certain circumstances, as follows:

Rule 9-105. SHOW CAUSE ORDER; OTHER NOTICE

. . .

(b) Persons to be Served

(1) In Adoption Proceeding

(A) Subject to paragraphs (1)(B), (1)(C), ~~[and] (1)(D), and (1)(E)~~ of this section, if the petition seeks adoption, the show cause order shall be served on (i) the person to be adopted, if the person is 10 years old or older; (ii) the parents of the person to be adopted; and (iii) any other person the court directs to be served.

(B) If the parental rights of the parents of the person to be adopted have been terminated by a judgment of guardianship with the right to consent to adoption, service shall be on the guardian instead of the parents.

(C) If an attorney has been appointed to represent a parent or the person to be adopted, service shall be on the attorney

instead of the parent or person to be adopted.

Cross reference: See Rule 9-106 (a) concerning appointment of attorney.

(D) [The show cause order need not be served on: (i) a parent of a person to be adopted if the] If a person to be adopted has been adjudicated to be a child in need of assistance in a prior juvenile proceeding[, the petition for adoption is filed by a child placement agency,] and the court is satisfied by affidavit or testimony that the petitioner has made reasonable good faith efforts to serve the show cause order on the person's parent by both certified mail and private process at the addresses specified in Code, Family Law Article, §5-322 (b) and at any other address actually known to the petitioner as one where the parent may be found[; or (ii) a person who has executed a written consent pursuant to Rule 9-102], the court shall order notice by publication as to that parent pursuant to section (c) of this Rule.

(E) The show cause order need not be served on a person who has executed a written consent pursuant to Rule 9-102.

(2) In a Guardianship Proceeding

(A) Subject to paragraphs (2)(B) and (2)(C) of this section, of the petition seeks guardianship, the show cause order shall be served on (i) the parents of the person for whom a guardian is to be appointed and (ii) any other person that the court directs to be served.

(B) If an attorney has been appointed to represent a parent or the person for whom a guardian is to be appointed, service shall be on the attorney instead of the parent or person for whom a guardian is to be appointed.

(C) The show cause order need not be served on: (i) a parent of a person for whom a guardian is to be appointed if the person for whom a guardian is to be appointed has been adjudicated to be a child in need of assistance in a prior juvenile proceeding and the court is satisfied by affidavit or testimony that the petitioner has made reasonable good faith efforts to serve the show cause order on the parent by both certified mail and private process at the addresses specified in Code, Family Law Article, §5-322 (b) and at any other address actually known to the petitioner as one where the parent may be found; or (ii) a person who has executed a written consent pursuant to Rule 9-102.

(c) Method of Service

Except as otherwise provided in this Rule, the show cause order shall be served in the manner provided by Rule 2-121. If the court is satisfied by affidavit or testimony that the petitioner or a parent, after reasonable efforts made in good faith, has been unable to ascertain the identity or whereabouts of a parent entitled to service under section (b) of this Rule, the court may order, as to that parent, that the show cause order be published at least one time in one or more newspapers of general circulation published]. Publication shall be] in the



county [of that parent's last known residence] in which the petition is filed and, if different, in the county of that parent's last known address. When a show cause order is published, unless the court orders otherwise, the show cause order shall identify the individual who is the subject of the proceeding only as "a child born to" followed by the name of any known parent of the child and shall set forth the month, year, county, and state of the child's birth, to the extent known.

Cross reference: [See Code, Family Law Article, §5-322 (c)(2)(ii), which provides that an indigent petitioner may serve notice by posting.] See Code, Family Law Article, §5-322 (e), setting forth the efforts necessary to support a finding that a reasonable, good faith effort has been made by a local department of social services to locate a parent.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-102A to correct a reference to an Article 27 provision which has been moved into the new Criminal Procedure Article, as follows:

Rule 11-102A. TRANSFER OF JURISDICTION FROM COURT EXERCISING CRIMINAL JURISDICTION

a. Applicability.

This Rule applies to actions for which a court exercising criminal jurisdiction has entered an order transferring jurisdiction pursuant to Rule 4-251 (c)(2) or 4-252 (h)(3).

Cross reference: Code, [Article 27, §594A] Criminal Procedure Article, §4-202.

b. Juvenile Petition.

Within 10 days after a court exercising criminal jurisdiction enters an order transferring jurisdiction over a defendant to the juvenile court, the State's Attorney shall file a juvenile petition pursuant to Rule 11-103 and shall attach to the petition a copy of (1) the charging document that was filed in the court exercising criminal jurisdiction and (2) the order of the court transferring jurisdiction. If the petition is not so filed, the respondent shall be released from detention, shelter care, or all conditions of pretrial release, without prejudice to the right of the State's Attorney to file a petition thereafter.

c. Effect of Provisions in Order Transferring Jurisdiction.

Except as provided in section b of this Rule and subject to Rules 11-112 and 11-114, any conditions of release of the respondent or any placement of the respondent in detention or shelter care set forth in the order transferring jurisdiction shall remain in effect and be enforceable by the juvenile court pending the adjudicatory hearing unless modified or abrogated by the juvenile court.

Source: This Rule is former Rule 902A.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-118 to conform to recent legislation, as follows:

Rule 11-118. PARENTS' LIABILITY - HEARING - RECORDING AND EFFECT

a. Hearing.

If, at any stage of a proceeding, the court believes a respondent has committed acts for which the respondent's parent or parents may be liable under Code, Article 27, §§[807,] 139D, 151A, or 151C or Code, Criminal Procedure Article, §11-607 (b), the court shall summon the parent or parents in the manner provided by Chapter 100 of Title 2 for service of process to obtain personal jurisdiction over a person to appear at a hearing to determine liability. This hearing may be conducted contemporaneously with a disposition hearing, if appropriate.

b. Recording.

Recordation of a judgment of restitution shall be governed by Code, [Article 27, §807] Criminal Procedure Article, §11-608.

Source: This Rule is former Rule 918 and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-601 to conform to recent legislation, as follows:

Rule 11-601. EXPUNGEMENT OF CRIMINAL CHARGES TRANSFERRED TO THE JUVENILE COURT

(a) Procedure

A petition for expungement of records may be filed by a respondent who is eligible under Code, [Article 27, §737 (b)] Criminal Procedure Article, §10-106 to request expungement. Proceedings for expungement shall be in accordance with Title 4, Chapter 500 of these Rules, except that the petition shall be filed in the juvenile court and shall be substantially in the form set forth in section (b) of this Rule.

(b) Form of Petition

A petition for expungement of records under this Rule shall be substantially in the following form:

(Caption)

PETITION FOR EXPUNGEMENT OF RECORDS

(Code\*, [Article 27, §737 (b)] Criminal Procedure Article, §10-106)

1. On or about \_\_\_\_\_ I was arrested by an officer of the \_\_\_\_\_

(Law Enforcement Agency)

at \_\_\_\_\_ , Maryland, as a result of the following  
incident \_\_\_\_\_ .

2. I was charged with the offense of \_\_\_\_\_  
\_\_\_\_\_ .

3. The charge was transferred to the juvenile court under  
former Code\*, Article 27, §594A or Code\*, Criminal Procedure  
Article, §4-202 and

(check one of the following boxes):

- ☐ No petition under Code\*, Courts Article, §3-810 was filed;
- ☐ The decision on the juvenile petition was a finding of  
facts-not-sustained; or
- ☐ I was adjudicated delinquent and I am now at least 21  
years of age.

WHEREFORE, I request the Court to enter an Order for  
Expungement of all police and court records pertaining to the  
above arrest, detention, confinement, and charges.

I solemnly affirm under the penalties of perjury that the  
contents of this Petition are true to the best of my knowledge,  
information and belief, and that the charge to which this  
Petition relates was not made for any nonincarcerable violation  
of the Vehicle Laws of the State of Maryland, or any traffic law,  
ordinance, or regulation, nor is it part of a unit the  
expungement of which is precluded under Code\*, [Article 27, §738]  
Criminal Procedure Article, §10-107.

\_\_\_\_\_

(Date)

Signature

---

(Address)

---

(Telephone No.)

\* References to "Code" in this Petition are to the Annotated Code of Maryland.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE  
TITLE 15 - OTHER SPECIAL PROCEEDINGS  
CHAPTER 200 - CONTEMPT

AMEND Rule 15-207 to conform to recent legislation, as follows:

Rule 15-207. CONSTRUCTIVE CONTEMPT; FURTHER PROCEEDINGS

(a) Consolidation of Criminal and Civil Contempts

If a person has been charged with both constructive criminal contempt pursuant to Rule 15-205 and constructive civil contempt pursuant to Rule 15-206, the court may consolidate the proceedings for hearing and disposition.

(b) When Judge Disqualified

A judge who enters an order pursuant to Rule 15-204 or who institutes a constructive contempt proceeding on the court's own initiative pursuant to Rule 15-205 (b)(1) or Rule 15-206 (b)(1) and who reasonably expects to be called as a witness at any hearing on the matter is disqualified from sitting at the hearing unless (1) the alleged contemnor consents, or (2) the alleged contempt consists of a failure to obey a prior order or judgment in a civil action or a "judgment of restitution" as defined in Code, [Article 27, §805A (i)] Criminal Procedure Article, §11-601 (g).

. . .



MARYLAND RULES OF PROCEDURE  
TITLE 15 - OTHER SPECIAL PROCEEDINGS  
CHAPTER 300 - HABEAS CORPUS

AMEND Rule 15-304 to conform to recent legislation, as follows:

Rule 15-304. ALTERNATE REMEDY - POST CONVICTION PROCEDURE ACT

When a petition for a writ of habeas corpus is filed by or on behalf of an individual confined as a result of a sentence for a criminal offense, including a criminal contempt, or a commitment order in a juvenile delinquency proceeding, the judge may order that the petition be treated as a petition under the Post Conviction Procedure Act if the individual confined consents in writing or on the record and the judge is satisfied that the post conviction proceeding is adequate to test the legality of the confinement. Upon entry of the order, the judge shall transmit the petition, a certified copy of the order, and any other pertinent papers to the court in which the sentence or judgment was entered. Subsequent procedure shall be as in a post conviction proceeding.

Cross reference: See Rules 4-401 through 4-408 and Code, [Article 27, § 645A, et seq.] Criminal Procedure Article, §§7-101 - 7-108 and §§7-201 - 7-204.

Source: This Rule is derived from former Rule Z55.

MARYLAND RULES OF PROCEDURE  
TITLE 15 - OTHER SPECIAL PROCEEDINGS  
CHAPTER 1000 - WRONGFUL DEATH

AMEND Rule 15-1001 to add another Code provision to the cross reference, as follows:

Rule 15-1001. WRONGFUL DEATH

(a) Applicability

This Rule applies to an action involving a claim for damages for wrongful death.

Cross references: See Code, Courts Article, §§3-901 through 3-904, relating to wrongful death claims generally. See Code, Courts Article, §5-806, relating to wrongful death claims between parents and children arising out of the operation of a motor vehicle. See also Code, Labor and Employment Article, §9-901 et seq., relating to wrongful death claims when worker's compensation may also be available, and Code, Insurance Article, §20-601, relating to certain wrongful death claims against the Maryland Automobile Insurance Fund. See also Code, Estates and Trusts Article, §8-103, relating to the limitation on presentation of claims against a decedent's estate.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS  
CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE, JUDICIAL  
DUTIES, ETC.

AMEND Rule 16-101 to conform to recent legislation, as follows:

Rule 16-101. Administrative Responsibility.

d. County Administrative Judge.

. . .

3. Power to Delegate.

(i) A County Administrative Judge may delegate to any judge, to any committee of judges, or to any officer or employee any of the administrative responsibilities, duties and functions of the County Administrative Judge.

(ii) In the implementation of Code, [Article 27, §591] Criminal Procedure Article, §6-103 and Rule 4-271 (a), a County Administrative Judge may authorize (A) with the approval of the Chief Judge of the Court of Appeals, one or more judges to postpone criminal cases on appeal from the District Court or transferred from the District Court because of a demand for jury trial, and (B) not more than one judge at a time to postpone all other criminal cases.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS  
CHAPTER 200 - THE CALENDAR -- ASSIGNMENT AND DISPOSITION  
OF MOTIONS AND CASES

AMEND Rule 16-204 to conform it to recent legislation, as follows:

Rule 16-204. FAMILY DIVISION AND SUPPORT SERVICES

(a) Family Division

(1) Established

In each county having more than seven resident judges of the circuit court authorized by law, there shall be a family division in the circuit court.

(2) Actions Assigned

In a court that has a family division, the following categories of actions and matters shall be assigned to that division:

(A) dissolution of marriage, including divorce, annulment, and property distribution;

(B) child custody and visitation, including proceedings under the Maryland Uniform Child Custody Jurisdiction Act, Code, Family Law Article, Title 9, Subtitle 2, and the parental Kidnapping Prevention Act, 28 U.S.C. §1738A;

(C) alimony, spousal support, and child support, including proceedings under the Maryland Uniform Interstate Family Support

Act;

(D) establishment and termination of the parent-child relationship, including paternity, adoption, guardianship that terminates parental rights, and emancipation;

(E) criminal nonsupport and desertion, including proceedings under Code, Family Law Article, Title 10, Subtitle 2 and Code, Family Law Article, Title 13;

(F) name changes;

(G) guardianship of minors and disabled persons under Code, Estates and Trusts Article, Title 13;

(H) involuntary admission to state facilities and emergency evaluations under Code, Health General Article, Title 10, Subtitle 6;

(I) family legal-medical issues, including decisions on the withholding or withdrawal of life-sustaining medical procedures;

(J) actions involving domestic violence under Code, Family Law Article, Title 4, Subtitle 5;

(K) juvenile causes under Code, Courts Article, Title 3, Subtitles 8 and 8A;

(L) matters assigned to the family division by the County Administrative Judge that are related to actions in the family division and appropriate for assignment to the family division; and

(M) civil and criminal contempt arising out of any of the categories of actions and matters set forth in subsection (a)(2)(A) through (a)(2)(L) of this Rule.

Committee note: The jurisdiction of the circuit court, the District Court, and the Orphan's Court is not affected by this section. For example, the District Court has concurrent jurisdiction with the circuit court over proceedings under Code, Family Law Article, Title 4, Subtitle 5[, and, in Montgomery County, the District Court sits as a juvenile court pursuant to Code, Courts Article, §4-403 and has exclusive original jurisdiction over certain termination of parental rights proceedings and related adoption proceedings pursuant to Code, Courts Article, §3-804].

. . .

MARYLAND RULES OF PROCEDURE

TILE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-308 to conform to recent legislation, as follows:

Rule 16-308. COURT INFORMATION SYSTEM

a. Report of Docketing and Disposition of Cases.

The clerk shall promptly transmit to the Administrative Office of the Courts in a manner prescribed by the State Court Administrator the data elements concerning the docketing and disposition of criminal, juvenile and civil cases as may be designated by the State Court Administrator.

b. Reporting and Transmittal of Criminal History Record Information.

1. The Administrative Office of the Courts shall transmit to the Central Repository of Criminal History Record Information of the Department of Public Safety and Correctional Services the data elements of criminal history record information on offenses agreed to by the Secretary of the Department of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals or his designee for purposes of completing a criminal history record maintained by the Central Repository of Criminal History Record Information.

2. Transmittal of Reports of Dispositions.

(a) Within 15 days after the conviction, forfeiture of bail, dismissal of an appeal or an acquittal in any case involving a violation of the Maryland Vehicle Law or other traffic law or ordinance, or any conviction for manslaughter or assault committed by means of an automobile, or of any felony involving the use of an automobile, the clerk of the court shall forward to the State Motor Vehicle Administration a certified abstract of the record on a form furnished by the State Motor Vehicle Administration.

(b) When a defendant has been charged by citation and a conviction is entered by reason of his payment of a fine or forfeiture of collateral or bond before trial, the conviction is not a reportable event under [Article 27, Section 747 (a) (10), Annotated Code of Maryland] Code, Criminal Procedure Article, §10-215 (a)(10).

c. Inspection of Criminal History Record Information Contained in Court Records of Public Judicial Proceedings.

Unless expunged, sealed, marked confidential or otherwise prohibited by statute, court rule or order, criminal history record information contained in court records of public judicial proceedings is subject to inspection by any person at the times and under conditions as the clerk of a court reasonably determines necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of his office.

Cross reference: See Code, Courts Article, §§2-203 and 13-101



(d) and (f), [Article 27, §§743, 747, 748] Criminal Procedure Article, §§10-201, 10-214, 10-217, and State Government Article, §§10-612 through 10-619. For definition of court records see Rule 4-502 (d).

Committee note: This Rule does not contemplate the reporting of parking violations.

Source: This Rule is former Rule 1218.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 500 - COURT ADMINISTRATION - DISTRICT COURT

AMEND Rule 16-503 to conform with recent legislation, as follows:

Rule 16-503. COURT INFORMATION SYSTEM

a. Reporting and Transmittal of Criminal History Record Information.

1. The District Court of Maryland shall transmit to the Central Repository of Criminal History Record Information of the Department of Public Safety and Correctional Services the data elements of criminal history record information on offenses agreed to by the Secretary of the Department of Public Safety and Correctional Services the data elements of criminal history record information on offenses agreed to by the Secretary of the Department of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals or his designee for purposes of completing a criminal history record maintained by the Central Repository of Criminal History Record Information.

2. Transmittal of Reports of Dispositions.

When a defendant has been charged by citation and a conviction is entered by reason of his payment of a fine or forfeiture of collateral before trial, the conviction is not a reportable event under [Article 27, Section 747 (a)(10), Annotated Code of

Maryland] Code, Criminal Procedure Article, §10-215 (a)(10).

b. Inspection of Criminal History Record Information Contained in Court Records of Public Judicial Proceedings.

Unless expunged, sealed, marked confidential or otherwise prohibited by statute, court rule or order, criminal history record information contained in court records of public judicial proceedings is subject to inspection by any person at the times and under conditions as the clerk of a court reasonably determines necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of his office.

Cross reference: See Code, Courts Article, §§2-203 and 13-101(d) and (f), [Article 27, §§743, 747, 748] Code, Criminal Procedure Article, §§10-201, 10-214, and 10-217, and Code, State Government Article, §§10-612 through 10-619. For definition of court records, see Rule 4-502 (d).

Source: This Rule is former M.D.R. 1218.

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS  
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-813 to conform to recent legislation and to correct an obsolete reference to a Rule, as follows:

Rule 16-813. Maryland Code of Judicial Conduct.

. . .

Canon 3

Impartial and Diligent Performance of Judicial Duties

In the performance of judicial duties, the following standards apply:

A. ADJUDICATIVE RESPONSIBILITIES.

. . .

(10) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B (10) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

Committee note.-- Secs. 3 A (1) and (2) are derived from ABA Canon 3 A (1) and current Md. Canon XIV.

Sec. 3 A (3) is derived from ABA Canon 3 A (2) and current Md. Canon XV.

Sec. 3 A (4) is derived from ABA Canon 3 A (3) and current Md. Canons IX and X.

Sec. 3 A (5) is derived from ABA Canon 3 A (4) and current Md. Canon XVI.

The Commentary to sec. 3 A (5) is derived from the Commentary to ABA Canon 3 A (4) and the Committee note to current Md. Canon XVI.

Sec. 3 A (6) is derived from ABA Canon 3 A (5) and current Md. Canon VII.

The Commentary to sec. 3 A (6) is derived from the Commentary to ABA Canon 3 A (5) and from current Md. Canon VII.

Sec. 3 A (7) is derived from ABA Canon 3 A (6) and current Md. Ethics Rule 12.

The Commentary to sec. 3 A (7) is derived from the Commentary to ABA Canon 3 A (6).

Sec. 3 A (8) is derived from current Md. Ethics Rule 13. There is no ABA provision on this subject.

ABA Canon 3 A (7), current Md. Canon XXXIV, and current Md. Ethics Rule 11 contain provisions governing broadcasting, televising, recording or photographing in courtrooms and adjacent areas. Several states have deleted that provision on the ground that it addresses a question of court administration rather than ethics. The Committee agrees, especially since Rule [1209] 16-109 of the Md. Rules of Procedure governs media coverage of civil actions, and Md. Code, [Art. 27, sec. 467B] Criminal Procedure Article, §1-201 prohibits (with limited exceptions) media coverage of criminal trials.

Sec. 3A(9) and the Commentary to Sec. 3A(9) are derived from ABA Canon 3B(5) and the Commentary to the Canon of the 1990 ABA Code of Judicial Conduct.

Section 3A(10) is derived from ABA Canon 3B(6) of the 1990 Code.

Section 3A(9) and 3A(10) were added to emphasize the requirements of impartial decision-making and the appearance of fairness in the courtroom.

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MARYLAND RULES OF PROCEDURE

APPENDIX - FORMS

AMEND Form Interrogatories, Form No. 8, to change certain terminology, as follows:

Form 8. Personal Injury Interrogatories.

Interrogatories

1. Describe each injury sustained by you as a result of the occurrence, and state whether the injury was temporary or is permanent. (Standard Personal Injury Interrogatory No. 1.)

2. Describe all current symptoms, [handicaps] disabilities, and other physical or mental conditions that you claim are a result of the occurrence. (Standard Personal Injury Interrogatory No. 2.)

3. Identify each health care provider who has examined or treated you as a result of the occurrence, and for each provider state the date and purpose of each examination or treatment. (Standard Personal Injury Interrogatory No. 3.)

4. Identify all hospitals or other facilities at which you have been examined or treated as a result of the occurrence, and for each state the dates of your examinations or treatments and, if you were admitted, the dates of your admissions and discharges. (Standard Personal Injury Interrogatory No. 4.)

5. Identify all health care providers, other than those otherwise identified in your answers, who have examined or

treated you during the period commencing five years before the occurrence and extending to the present, identify all hospitals and other facilities at which you were examined or treated, and describe the condition for which you were examined or treated.

(Standard Personal Injury Interrogatory No. 5.)

6. State whether you claim past or future loss of earnings or earning capacity as a result of the occurrence and, if so, state for each category the amount claimed, the method by which you computed that amount, the figures used in that computation, and the facts and assumptions upon which your claim is based.

(Standard Personal Injury Interrogatory No. 6.)

7. State the amount you reported as earned income on your federal income tax returns for each of the past three years and whether you have a copy of the returns. (Standard Personal Injury Interrogatory No. 7.)

8. Itemize all expenses and other economic damages, past and future, that you claim are a result of the occurrence and as to each item claimed identify the item, the amount claimed for that item, the method, if any, by which you computed the amount, the figures used in that computation, and the facts and assumptions upon which your claim is based. (Standard Personal Injury Interrogatory No. 8.)

9. State whether prior or subsequent to the occurrence you have sustained any accidental injury for which you received medical care or treatment. If so, describe the date and circumstances of the accidental injury and identify all health

care providers, including hospitals and other institutions, that furnished care to you. (Standard Personal Injury Interrogatory No. 9.)